

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

THURSDAY, THE 8TH DAY OF MARCH 2012/18TH PHALGUNA 1933

WP(C).No. 29162 of 2011 (U)

PETITIONERS:

- 1. THIRUVALLA TALUK KERALA STATE BEVERAGE CORPORATION (KSBC) FL NO.9, LABELLING WORKERS CONGRESS (INTUC) REG.NO.0408 2009 VALANJAVATTAOM P.O., THIRUVALLA, PATHANAMTHITTA REPRESENTED BY ITS SECRETARY, MOALAMMA THOMAS W/O.P.K.THOMAS, PULUVICHERIL HOUSE, VALANJAVATTAOM P.O., THIRUVALLA**
- 2. MOALAMMA THOMAS, W/O.P.K.THOMAS, PULUVICHERIL HOUSE, VALANJAVATTAOM P.O., THIRUVALLA**

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENTS:

- 1. THE KERALA STATE BEVERAGES (M&M) CORPORATION LTD, REPRESENTED BY ITS MANAGING DIRECTOR, OFFICE OF THE MANAGING DIRECTOR THIRUVANANTHAPURAM. PIN 695 001.**
- 2. THE MANAGING DIRECTOR, THE KERALA STATE BEVERAGES (M&M) CORPORATION LTD., OFFICE OF THE MANAGING DIRECTOR THIRUVANANTHAPURAM. PIN 695 001.**
- 3. THE MANAGER, KERALA STATE BEVERAGES (M&M) CORPORATION WAREHOUSE, VALANJAVATTOM,THIRUVALLA. 689 101.**
- 4. THE STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF LABOUR GOVERNMENT SECRETRIAT,THIRUVANANTHAPURAM-695 001.**
- 5. THE SECRETARY TO GOVERNMENT, DEPARTMENT OF EXCISE, GOVERNMENT SECRETRIAT THIRUVANANTHAPURAM-695 001.**

R1-3 BY SRI.C.S.AJITH PRAKASH,SC,BEVERAGES CORP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-03-2012, ALONG WITH WPC. 14724/2011 & WPC. 30061/2011, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

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PETITIONER'S EXHIBITS

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- P1 COPY OF THE CLAIM STATEMENT DATED 24/2/2009 FILED BY THE THIRUVALLA TALUK KRIPA KUDUMBASREE WORKERS' UNION, VALANJAVATTOM, THIRUVALLA IN ID NO.10/2007 BEFORE THE INDUSTRIAL TRIBUNAL, KOLLAM.
- P2 COPY OF THE ORDER IN CMP NO.07/09 (a) IN ID NO.10/2007 PASSED BY THE LEARNED TRIBUNAL, KOLLAM.
- P3 COPY OF THE APPLICATION SUBMITTED BY THE PETITIONERS BEFORE THE LEARNED TRIBUNAL BELOW FOR CHANGE OF THE NAME OF THE UNION.
- P4 COPY OF THE ORDER DATED 23/11/2010 IN CMP NO.12/10 IN ID NO.10/2007.
- P5 COPY OF THE MEMO DATED 03/05/2011 SUBMITTED BY THE PETITIONERS BEFORE THE INDUSTRIAL TRIBUNAL, KOLLAM IN ID NO.10/2007.
- P5 COPY OF THE CERTIFICATE OF REGISTRATION DATED 19/10/2009 (a) SUBMITTED BEFORE THE INDUSTRIAL TRIBUNAL, KOLLAM IN ID NO.10/2007.
- P5 COPY OF THE BYE LAW OF PETITIONER NO.1 UNION SUBMITTED (b) BEFORE THE INDUSTRIAL TRIBUNAL, KOLLAM IN ID NO.10/2007
- P5 TRUE COPY OF THE LIST OF MEMBERS OF PETITIONER IN NO.1 (c) UNION SUBMITTED BEFORE THE INDUSTRIAL TRIBUNAL, KOLLAM IN ID NO.10/2007.
- P6 COPY OF JUDGMENT DATED 21/10/2008 PASSED BY THIS HON'BLE COURT IN WPC NO.29351/2008 (T)
- P7 COPY OF THE AWARD DATED 15/07/2010 PASSED BY THE INDUSTRIAL TRIBUNAL, KOZHIKODE IN ID NO.6/2005.
- P8 COPY OF THE REQUEST DATED 09/08/2011 SUBMITTED BY PETITIONER NO.2 BEFORE RESPONDENT NO.2.
- P9 COPY OF THE JUDGMENT DATED 2/12/2002 IN OP NO.33332/2002 PASSED BY THIS HON'BLE COURT.
- P9 COPY OF THE COMMUNICATION DATED 31/5/2011 ISSUED BY (a) RESPONDENT NO.2.
- P10 COPY OF THE APPEAL/REPRESENTATION DATED 6/10/2011 (EXCLUDING ANNEXURES) SUBMITTED BEFORE RESPONDENT NOS.4 AND 5.

RESPONDENTS' EXHIBITS: NIL

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// TRUE COPY//

P.A. TO JUDGE

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P.N.RAVINDRAN, J.

W.P(C).No.29162 of 2011

Dated this the 8th day of March, 2012

JUDGMENT

The first petitioner is a registered trade union representing women workers engaged in the work of affixing adhesive security labels on liquor bottles in the warehouse of the Kerala State Beverages (Manufacturing and Marketing) Corporation at Valanjavattom in Pathanamthitta district. The second petitioner is the Secretary of the first petitioner union and one among the 21 workers whose cause is espoused by the first petitioner trade union.

2. The 21 employees including the second petitioner who are engaged in the work of affixing adhesive security labels on liquor bottles raised a claim demanding regularisation in service. When the conciliation talks failed, the Government, by G.O.(Rt) No.3204/07/LBR dated 29.10.2007, referred the demand for regularisation raised by the said 21 workers for adjudication by the Industrial Tribunal, Kollam, where it is presently pending as

I.D.No.10 of 2007. This writ petition is filed contending that notwithstanding the pendency of I.D.No.10 of 2007 before the Industrial Tribunal, Kollam, the Kerala State Beverages (Manufacturing and Marketing) Corporation is taking steps to dispense with the services of the 21 women workers. In this writ petition the petitioners seek a direction to respondents 1 to 3 to refrain from dispensing with the services of the 21 women workers whose claim for regularisation is pending before the Industrial Tribunal, Kollam in I.D.No.10 of 2007.

3. I heard the learned counsel on both sides. The pleadings and the materials on record disclose that a similar claim made by 23 workers who were engaged in the work of affixing adhesive security labels on liquor bottles in the Kannur Unit of the Kerala State Beverages (Manufacturing and Marketing) Corporation was likewise referred for adjudication to Industrial Tribunal, Kozhikode, where it was taken on file and numbered as I.D.No.6 of 2005. When during the pendency of I.D.No.6 of 2005, steps were taken to dispense with the services of the 23 workers, the trade union representing the said workers filed W.P.(C) No.29351 of 2008 in

this Court. By Ext.P6 judgment delivered on 21.10.2008 a learned single Judge of this Court disposed of the said writ petition with the following directions:-

- (i) *The services of 23 women workers who have been engaged and who are being engaged for the job of affixing labels on the liquor bottles of the Beverages Corporation in its Kannur Unit shall not be disturbed or altered pending a decision on I.D.6/2005 pending before the Industrial Tribunal, Kozhikode. This direction is subject to the direction being issued hereunder.*
- (ii) *It is open to the KSBC to move an application before the Industrial Tribunal for permission to either disengage the services of 23 labeling workers, or otherwise alter the nature of the engagement. If the application is filed in this behalf under Section 33(a) of the Act, Tribunal shall positively pass orders on the same within three months from the date on which the application is filed.*
- (iii) *It is made clear that I have not considered the contentions of the KSBC that the 23 women labeling workers have been engaged by a contractor and not by the Corporation directly. This is an aspect which will have to be adjudicated upon by the Industrial Tribunal, Kozhikode, in*

I.D.6/2005, provided the same has been raised for consideration by the KSBC.

(iv) The aforementioned directions have been issued only as a matter of maintaining the status as regards the engagement of 23 labeling workers comprehended by Ext.P1 reference order. It need not be treated as an expression of opinion of this Court on the merits of the contentions raised by either side. It is open to the KSBC to proceed to award the contract to a suitable person pursuant to Ext.P3, without violating the directions issued herein above.

4. Later, by Ext.P7 award passed on 15.7.2010, the Industrial Tribunal, Kozhikode held that the 23 workers are entitled to be regularised in service. The said award is under challenge in W.P.(C)No.14724 of 2011, which is presently pending in this Court. The claim made by the petitioners herein is identical to the claim made on behalf of the 23 workers who are governed by Ext.P6 judgment. In such circumstances and also for the reason that the claim of the 23 workers was upheld by the Industrial Tribunal in Ext.P7 award, which no doubt is under challenge in this Court in W.P.(C)No.14724 of 2011, I am of the opinion that a direction similar to the one issued in Ext.P6

judgment can be issued in the instant case also. I accordingly dispose of the writ petition with the following directions:-

(i) The services of 21 women workers engaged in the work of affixing adhesive security labels on liquor bottles in the warehouse/depot of the Kerala State Beverages (Manufacturing and Marketing) Corporation at Valanjavattom in Pathanamthitta district shall not be disturbed or altered pending disposal of I.D.No.10 of 2007 on the file of the Industrial Tribunal, Kollam.

(ii) However, it will be open to the Kerala State Beverages (Manufacturing and Marketing) Corporation to move the Industrial Tribunal, Kollam under section 33 (a) of the Industrial Disputes Act for permission to disengage the service of the said workers or otherwise alter the nature of their engagement.

(iii) In the event of such an application being filed, the Industrial Tribunal shall consider the same and pass appropriate orders thereon in accordance with law within an outer limit of three months from the date on which such an application is filed.

(iv) It is clarified that I have not pronounced upon the merits of the rival contentions and that the directions issued

herein are only of an interim nature and the rights of parties shall stand governed by the award to be passed by the Industrial Tribunal, Kollam, in I.D.No.10 of 2007.

(v) In view of the fact that more than four years have passed after the claim raised by the workers for regularisation in service was referred for adjudication, I direct the Industrial Tribunal, Kollam to dispose of I.D.No.10 of 2007 expeditiously and in any event within an outer limit of six months from the date on which either of the parties produce a certified copy of this judgment before the Industrial Tribunal, Kollam.

**P.N.RAVINDRAN,
Judge.**

ahg.

P.N.RAVINDRAN, J.

W.P(C).No.29162 of 2011

JUDGMENT

8th March, 2012